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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/579,107      | 03/07/2007  | Heinz Peter Vollmers | 043043-0358637      | 3677             |

27500 7590 05/01/2009  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
ATTENTION: DOCKETING DEPARTMENT  
P.O BOX 10500  
McLean, VA 22102

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| EXAMINER |
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DUFFY, BRADLEY

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

1643

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| MAIL DATE | DELIVERY MODE |
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05/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# **Notice of Non-Compliant Amendment (37 CFR 1.121)**

Application No.

10/579,107

Examiner

BRADLEY DUFFY

Applicant(s)

VOLLMERS ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 26 January 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other See Continuation Sheet.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Brad Duffy/ Examiner, Art Unit 1643

571-272-9935

Continuation of 1(c) Other: The specification amendment is considered non-compliant because it fails to meet the requirements of 37 CFR § 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003).

The amendment to the specification is non-compliant because instead of replacing paragraphs by showing the changes that have been made relative the immediate prior versions of those paragraphs as required by 37 CFR § 1.121, the amendment merely shows and directs the amendment of lines without providing the full text of the paragraphs.

37 CFR § 1.121 provides for amendments to the specification that are limited to the substitution of existing paragraphs by amended versions thereof, provided that the changes that have been made relative to their immediate prior versions are marked in the prescribed manner, the insertion of new paragraphs, and the deletion of entire paragraphs from the disclosure. Not provided for by the rule are amendments to sentences within a paragraph such as has been provided.

Continuation of 4(e) Other:

The amendment to the claims is non-compliant because the amendment does not properly present the correct status identifiers and does not present markings to show all the changes made in the current amendment relative to the immediate prior version.

For example, while the claim amendment filed 1/26/09 presents claim 28 with the identifier "previously presented", it is noted that this claim contains amendments as compared to the immediate prior version of the claim. For example, in the amendment filed 4/25/08, claim 28 was amended to recite the phrase "and specifically binds to an adenocarcinoma of the colon, a diffuse-type stomach carcinoma, an adenocarcinoma of the pancreas, or an adenocarcinoma of the lung" but the amendment filed 1/26/09 does not contain such a phrase and does not properly delete or amend such a phrase as required by 37 CFR § 1.121.

Briefly, the revised amendment practice now requires a listing of all claims beginning on a separate sheet. Each claim ever presented must be included in the listing of claims together with a single proper status identifier in parentheses. The permissible status identifiers include: "original", "currently amended", "canceled", "withdrawn", "previously presented", "new", and "not entered". The text of all pending claims, including withdrawn claims, must be presented. Markings to show only the changes made in the current amendment relative to the immediate prior version should be included with the text of all currently amended claims, including withdrawn claims that are amended. Added text must be shown by underlining the added text. Generally deleted text must be shown by strikethrough (e.g., ~~strikethrough~~); or if the strikethrough cannot be easily perceived, and for deletion of five or fewer characters, the deleted text may be marked by the inclusion of deleted text in double brackets (e.g., [[444]]). The text of "canceled" and "not entered" claims must not be presented; and consecutive "canceled" or "not entered" claims may be grouped together in one line (e.g., Claims 1-11 (canceled); Claims 51-62 (not entered)).

Only the corrected section of the non-compliant amendment must be resubmitted (in its entirety), e.g., the entire "Amendments to the specification" and "Amendments to the claims" section of applicant's amendment must be re-submitted. 37 CFR § 1.121(h).

/Stephen L. Rawlings/  
Primary Examiner, Art Unit 1643